

## Remarks

### **The Amendments**

The Office has requested that an abstract be added to the specification. Applicants have added the abstract that appeared in priority application 60/147,551, filed on August 6, 1999, which was incorporated by reference into the instant application (see page 1 of the instant application). The amendment adds no new matter and Applicants respectfully request its entry.

Claims 2 and have been amended to recite an “*in vivo* induced antigen.” Support for the amendment can be found in the specification at, *inter alia*, page 14, lines 16-22. The claims have been amended for clarity and are not narrowing amendments. Amendments to the claims are made without prejudice or disclaimer, and do not constitute amendments to overcome any prior art or other statutory rejections. The amendments are fully supported by the specification as filed and thus do not introduce new matter. Additionally, these amendments are not and should not be construed as admissions regarding the patentability of the claimed subject matter. Applicants reserve the right to pursue the subject matter of previously presented claims in this or in any other appropriate continuation, continuation-in-part, or divisional patent application. In the event that the amendments are considered to be narrowing amendments, Applicants expressly reserve the right to seek broader claims in this or any other appropriate continuation, continuation-in-part, or divisional application. Accordingly Applicants respectfully request the entry of the amendments presented herein.

### **Rejection of Claims 2-3 Under 35 U.S.C. § 112, second paragraph**

Claims 2- 3 stand rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. Applicants respectfully traverse the rejection.

The Office expresses concern that the “antigen” mentioned in claims 2-3 lacks antecedent basis in claim 1, which recites “adsorbing antibodies against antigens that are expressed by the microbe *in vivo* and *in vitro*.” In order to clarify claims 2-3, they have been amended to state that the recited antigen is an *in vivo* induced antigen. Claims 2-3 are therefore definite and Applicants respectfully request withdrawal of the rejection.

**Rejection of Claims 1-17 on the Grounds of Nonstatutory Obviousness-Type Double Patenting**

Claims 1-17 stand rejected on the grounds of nonstatutory obviousness-type double patenting over claims 1-11 of U.S. Pat. No. 7,033,748. Applicants will consider filing a terminal disclaimer over U.S. Pat. No. 7,033,748 when the claims are otherwise in condition for allowance.

Respectfully submitted,

**McDonnell Boehnen Hulbert & Berghoff LLP**

Dated: July 19, 2008

/Lisa M.W. Hillman/  
Lisa M. W. Hillman, PhD  
Reg. No. 43,673  
217-239-1962